

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 22-0778V

ANDREW EBERLING,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 10, 2024

*Adam Marc Raditz, Ginsberg & O'Connor, P.C., Cherry Hill, NJ, for Petitioner.*

*Julianna Rose Kober, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On July 18, 2022, Andrew Eberling filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a syncopal episode upon receiving a human papillomavirus (“HPV”) vaccine on August 2, 2019, which resulted in injuries, including a “closed nasal fracture and deviated septum with 85% obstruction” and lacerations to his face.” Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 10, 2024, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent states that, “petitioner has satisfied the criteria set

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<sup>1</sup> Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

forth in the recently revised Vaccine Injury Table and its Qualifications and Aids to Interpretation, which afford petitioner a presumption of causation if the onset of vasovagal syncope occurs within one hour after an HPV vaccination and there is no apparent alternative cause.” *Id.* at 3. Respondent further agrees that “petitioner experienced more than six months of residual effects. Specifically, the six-month severity requirement is met via the deviated septum from August 2, 2019, to about January 2023.” *Id.*

**In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master